

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

SONYA M. SANDERS,

Plaintiff,

vs.

**MOBILE INFIRMARY MEDICAL
CENTER and ANGELA LAURENCE,**

Defendants.

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CIVIL ACTION NO.: 11-00196-KD-N

ORDER

This action is before the Court on *sua sponte* review of Plaintiff's Second Amended Complaint (doc. 14). Upon consideration and for the reasons set forth herein, the Second Amended Complaint is STRICKEN.

Rule 15(a) provides, in relevant part, as follows:

(1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

Fed. R. Civ. P. 15.

Plaintiff did not amend her complaint within 21 days after service on April 23, 2011.¹

¹ The docket indicates that Mobile Infirmary Medical Center was served on April 23, 2011 (doc. 4). There is no return of service for Angela Laurence. However, Angela Laurence
(Continued)

Fed. R. Civ. P. 15(a)(1)(A). However, by filing the First Amended Complaint within 21 days after Defendants filed their motion to dismiss pursuant to Rule 12(b)(6), Plaintiff has amended her complaint once as a matter of course. Fed. R. Civ. P. 15(a)(1)(B). Therefore, Plaintiff's Second Amended Complaint was filed without obtaining the written consent of opposing counsel or leave of court, Fed. R. Civ. P. 15(a)(2) and is due to be stricken for failure to comply with the Federal Rules of Civil Procedure.²

DONE and ORDERED this the 27th day of June, 2011.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE

and Mobile Infirmary filed a joint motion to dismiss on May 16, 2011 and the summons for Angela Laurence was sent in care of Mobile Infirmary (doc. 4).

² The Court notes that the Second Amended Complaint appears to have been filed in response to Defendants' argument in their reply to Plaintiff's response to the motion to dismiss. In the reply, Defendants assert that the First Amended Complaint was still not sufficient (doc. 12) and their assertion necessitated further briefing as ordered by U.S. Magistrate Judge Katherine P. Nelson (doc. 13).